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STATE FOR EAP/K AND EEB/TPP/IPE  
STATE PLEASE PASS USTR FOR TRICK  
STATE PLEASE PASS COPYRIGHT OFFICE  
USDOC FOR 4431/MAC/IPB/EAP/DUTTON  
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TAGS: [ECON](#) [ETRD](#) [KIPR](#) [KS](#)

SUBJECT: NATIONAL ASSEMBLY PASSES COPYRIGHT ACT REVISION,  
STRENGTHENING ONLINE PIRACY LAWS

¶1. (U) On April 1, the first day of the April special legislative session, the Korean National Assembly passed the amended Copyright Act (CA) which strengthens the law's IPR enforcement provisions, particularly with regard to digital piracy, and integrates the Computer Programs Protection Act (CPPA) with the CA. The CA amendment bill was submitted by National Assembly Member Kang Seung-kyoo, a first time ruling party (Grand National Party) lawmaker with close ties to President Lee Myung-bak. President Lee has made IPR protection and enforcement one of the key policy tasks of his administration.

¶2. (U) The Copyright Act now contains a "three strikes" provision which empowers the Ministry of Culture, Sports and Tourism (MCST) to order online service providers (OSPs) to suspend the accounts of individual offenders for up to six months. Local U.S. industry stakeholder representatives tell post this measure gives the Korean copyright law among the strongest anti-piracy provisions in the world. Under the revised law, if an individual OSP user reproduces or transmits copyright infringing material via his OSP account, MCST can order the OSP to either issue a warning to the user or delete or discontinue the transmission of the illegally reproduced material. The OSP must inform MCST of the action it has taken within five days of receiving MCST's order. If the offender continues his activity after receiving more than three warnings from the OSP, MCST can order the OSP to suspend all of the user's accounts (with the exception of email) for up to six months. The OSP must inform the user seven days prior to account suspension and notify MCST of its actions within 10 days of receiving MCST's order to suspend service.

¶3. (U) The revised Copyright Act also allows MCST to apply the "three strikes" policy to OSP bulletin board or discussion forum services which continue to facilitate or allow the reproduction, transmission or posting of copyright infringing material. MCST can order OSPs to suspend the services of the offending boards for up to six months after three warnings go unheeded. The OSP must inform MCST of the actions it has taken within 15 days of receiving the MCST suspension order. The OSP must also post on its home page and on the offending discussion board notification that the board's services will be suspended for up to six months.

¶4. (U) Additionally, on the issue of prosecutorial discretion, the revised CA provides greater flexibility to copyright holders who may decide to settle out of court to recoup losses due to piracy, rather than pursue prosecution. While MCST retains the right to investigate and bring cases to prosecutors for indictment independent of complaints from right holders, the revised law allows right holders to determine whether or not punishment may be imposed against the offender.

¶5. (U) In line with the merger of the CA and the CPPA, the revised CA also merges the Copyright Commission and the Korea Software Copyright Commission into one agency, the Korea Copyright Commission.

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